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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/663,349      | 09/16/2003  | Gregory C. Franke    | 200302308-3         | 1585             |

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Legal Department, M/S 35  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

OMGBA, ESSAMA

ART UNIT PAPER NUMBER

3726

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,349

Applicant(s)

FRANKE ET AL.

Examiner

Essama Omgba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-18 and 26-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18 and 26-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-18 and 26-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "squeezing" in claims 13, 15, 26 and 31 is used by the claim to mean "apply pressure on the cam arm and the removal arm in opposite directions toward each other", while the accepted meaning is "exert pressure on opposite sides of an object as to compress", (Merriam Webster's Collegiate Dictionary, Tenth edition). The term is indefinite because the specification does not clearly redefine the term.

Also in claims 15, 26 and 31, the phrase "center of the retainer clip body" is not clear as to what is considered a center.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US Patent 6,318,452).

With regards to claim 13, Lee discloses a method of removing a retainer clip 10 comprising raising a rotatable cam arm 30 from a first position relative to a retainer clip body to a second position, squeezing the cam arm and a removal arm 16 together so that the retainer clip body is temporarily deformed such that a first latching portion 15 and a second latching portion of the retainer clip are separated and disengaging the retainer clip from a retaining member 40, see column 2, lines 60-67 and column 3, lines 1-22.

For claim 14, see engagement structures 42 on retaining member 40 in figure 3.

***Allowable Subject Matter***

5. Claims 15-18 and 26-36 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

6. Applicant's arguments filed September 13, 2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that the use of the word "squeezing" as used in claims 13 and 15 (and new claims 26 and 31) comports with the accepted meaning of the word asserted by the examiner, the examiner respectfully disagrees. As acknowledged by Applicant and as pointed out by the examiner the word "squeezing" is used in the claims to describe "applying pressure to opposite sides of the cam arm and the removal arm". This is different from the accepted meaning in that pressure is not exerted on both sides of the cam arm as to compress the cam arm nor pressure is exerted on both sides of the removal arm as to compress the removal arm. In this instant the cam arm and the removal arm cannot be construed as **one object** (see the accepted meaning of "squeezing" above) since they are two different structures not in contact with each other. If the cam arm and the removal arm were both sharing a common face then using "squeezing" would be appropriate with the accepted meaning. In response to Applicant's argument that in the Lee reference, the connecting portion 16 forms part of the body 10 of the clip and does not project from the main axis as an arm would and therefore cannot be construed as an arm, the examiner respectfully disagrees. As shown in figures 1-3, portion 16 does indeed project from the axis of portion 12. Furthermore in as much as parts 86, 90 and 98 that are parts of the body of

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Applicant's clip (figures 2 and 3) are considered arms, it is a reasonable interpretation to equate portion 16 of the Lee reference to the broadly recited "removal arm".

In response to Applicant's argument that the Lee reference does not disclose squeezing a cam arm and the connecting portion together so that the latching portion are separated, the examiner would like to direct Applicant to column 3, lines 13-22 in particular. Moving cam arm in the opposite direction of arrow A in figure 3 would indeed squeeze both the cam arm and removal arm (projecting portion) 16.

In view of the above remarks, the examiner maintains that the rejections of the claims as outlined above are proper.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo

December 11, 2004